

US EPA ARCHIVE DOCUMENT

**ATTORNEY GENERAL'S STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES TO THE FEDERAL
RCRA PROGRAM FROM JUNE 1992 THROUGH July 21, 1997**

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Delaware provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Department of Natural Resources and Environmental Control. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now, as specified below. These authorities and this certification supplement the previously certified authorities described in my predecessors certification(s) of July 26, 1983 and March 20, 1996.

The State of Delaware was previously granted authorization for clusters referred to by the United States Environmental Protection Agency (U.S.E.P.A.) as Base Program, non-HSWA Requirements prior to non-HSWA Cluster I, non-HSWA Cluster I, non-HSWA Cluster II, non-HSWA Cluster III, non-HSWA Cluster IV, non-HSWA Cluster V, Cluster VI (checklist 24 (amended)), HSWA Cluster I (with the exception of checklists SR1 & 2, 17B, 17L and 34), HSWA Cluster II (checklists 47, 48, 52H and 74) and RCRA Cluster I (checklists 81, 84 and 89). This Attorney General's statement coincides with the rules addressed in HSWA Cluster I (checklists 17B and 34), HSWA Cluster II (checklists 39, 50, 62, 63, 66, 68, 69, 75, 78 and 79), non-HSWA Cluster VI (checklists 65, 67, 70, 71, 72, 73 and 76), RCRA Cluster I (checklists 82, 83, 85, 86, 87, 89 and 90), RCRA Cluster II (checklists 92, 94, 95, 96, 97, 99, 102, 104, 105 and 106), RCRA Cluster III (checklists 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117B, 118, 119, 120, 122, 123, 124 and 129), RCRA Cluster IV (checklists 125 and 130) and RCRA Cluster V (checklist 137)

I. IDENTIFICATION AND LISTING

A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (12) Generic delisting of strontium sulfide (CAS No. 1314-96-1), 40 CFR 261.33(e) and Part 261 Appendix VIII, as amended October 31, 1988 [53 FR 43881] and February 25, 1991 [56 FR 7567], Revision Checklist 86.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW 261.33(e) and Part 261 Appendix VIII, as adopted and effective 7/26/94;

7 Del. Code, §6305(a)(1), as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (13) Listing of two wastes (K131 and K132) generated during the production of methyl bromide, 40 CFR 261.32 and 261 Appendices III and VII, as amended October 6, 1989 [54 FR 41402], Revision Checklist 68.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW 261.32 and Part 261 Appendices III and VII, as adopted and effective 6/19/92;

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (14) Listing of one generic category (F025) of waste generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes and amending F024, 40 CFR 261.31 and 261 Appendix VII; adding one toxicant to 261 Appendix VIII; as amended December 11, 1989 [54 FR 50968], Revision Checklist 69.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31 and Part 261 Appendices VII and VIII, as adopted and effective 6/19/92;

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (15) Amendments to the F019 hazardous waste listing to exclude wastewater treatment sludges from zirconium phosphating in aluminum can washing, when such phosphating is an exclusive conversion coating process, 40 CFR 261.31, as amended February 14, 1990 [55 FR 5340], Revision Checklist 72.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31, as adopted and effective 6/19/92;

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (16) Listing of four wastes (K107-K110) generated during the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides, 40 CFR 261.31 and Part 261 Appendices III and VII, as amended May 2, 1990 [55 FR 18496], Revision Checklist 75.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31 and Appendices III and VII, as adopted and effective 6/19/92;

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 75.

- (17) Listing of one waste (F039), 40 CFR 261.31 and Part 261 Appendix VII, as amended June 1, 1990 [55 FR 22520] and January 31, 1991 [56 FR 3864], Revision Checklists 78 and 83.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31 and Appendix VII, as adopted and effective 6/19/92;

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklists 78 and 83.

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

- (19) Listing of three wastes (F032, F034 and F035) from wood preserving operations that use chlorophenolic, creosote and/or inorganic

(arsenical and chromium) preservatives, 40 CFR 261.31, and 261 Appendices III, VII and VIII, as amended December 6, 1990 [55 FR 50450], Revision Checklist 82.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31 and Appendices III, VII and VIII, as adopted and effective 11/19/93;
7 Del. Code, Chapter 63, §6305(a) (1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (21) Redefinition of F037 and F038 listings to exclude 1) sludges from non-contact once-through cooling waters from both listings and 2) floats generated in aggressive biological treatment units from the F038 listing, 40 CFR 261.31 as amended May 13, 1991 [56 FR 21955], Revision Checklist 89.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31, as adopted and effective 7/26/94;
7 Del. Code, Chapter 63, §6305(a) (1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (23) Listing of seven wastes (K141, K142, K143, K144, K145, K147, and K148) generated during the production, recovery and refining of coke by-products produced from coal, 40 CFR 261.32, and Part 261 Appendix VII as amended August 18, 1992 [57 FR 37284], Revision Checklist 110.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.32 and Part 261 Appendix VII as adopted and effective 8/1/95;
7 Del. Code, Chapter 63, §6305(a) (1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (24) Listing of three wastes (K149, K150, and K151) from the production of chlorinated toluenes, 40 CFR 261.32 and Part 261 Appendix VII, as amended October 15, 1992 [57 FR 47376], Revision Checklist 115.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.32 and Part 261 Appendix VII as adopted and effective 8/1/95;
7 Del. Code, Chapter 63, §6305(a) (1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (25) Exceptions to listings of F032, F034, and F035 for wastewaters that have not come into contact with process contaminants, 40 CFR 261.31 as amended December 24, 1992 [57 FR 61492], Revision Checklist 120.

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31, as adopted and effective 8/1/95;

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

- (26) Exception to listing of F032 for potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not reserve or initiate the use of chlorophenolic formulations, 40 CFR 261.31 as amended December 24, 1992 [57 FR 61492], Revision Checklist 120.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.31, as adopted and effective 8/1/95;

7 Del. Code, Chapter 63, §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

C. State statutes and regulations provide authority to delist hazardous waste as indicated at 40 CFR 260.20 and 260.22 as amended by Revision Checklist 17B as indicated below:

- (1) State statutes and regulations require that before deciding to delist a waste, the State must consider whether any listing factor (including additional constituents) other than those for which the waste was listed would cause the waste to be hazardous.
- (2) State statutes and regulations require that there be no new temporary delistings without prior notice and comment. All temporary delistings received before November 18, 1984 without the opportunity for public comment and full consideration of such comment, shall lapse if not made final by November 8, 1986.

Federal Authority: RCRA §3001(f)(1)&(2); 40 CFR 260.20 and 260.22 as amended July 15, 1985 (50 FR 28702) and June 27, 1989 (54 FR 27114).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §260.20(d) and 260.22 as amended July 21, 1997 and effective August 21, 1997;

7 Del. Code, Chapter 63, §6305(a) as amended and effective 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent.

J. State statutes and regulations that:

- (1) provide final criteria to define Bevill-excluded mineral processing wastes, finalize the Bevill status of nine mineral processing waste streams, and list those mineral processing wastes subject to conditional retention as indicated in Revision Checklist 65.

Federal Authority: RCRA §3001(b); 40 CFR 261.3 and 261.4 as amended September 1, 1989 (54 FR 36592).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§261.3 and 261.4, as adopted and effective 6/19/92;

7 Del. Code, §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 65.

- (2) remove five conditionally retained mineral processing wastes from the exemption from hazardous waste regulation under the Bevill exclusion, and amend the definitions of "beneficiation" and "designated facility" as indicated in Revision Checklists 71 and 90.

Federal Authority: RCRA §3001(b)(3)(A)(ii); 40 CFR 260.10 and 261.4(b)(7) as amended January 23, 1990 (55 FR 2322) and June 13, 1991 (56 FR 27300).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§260.10 and 261.4(b)(7), as adopted and effective 6/19/92, and as amended and effective 7/26/94;

7 Del. Code, Chapter 63, §6305(a) and as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklists 71 and 90.

K. State statutes and regulations incorporate 47 new testing methods as approved methods for use in meeting the regulatory requirements under Subtitle C of RCRA as indicated in Revision Checklists 67 and 73.

Federal Authority: RCRA §§3001, 3004, 3005, and 3006; 40 CFR 260.11 and Part 261 Appendix III as amended September 29, 1989 (54 FR 40260) and March 9, 1990 (55 FR 8948).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§260.11 and Part 261 Appendix III, as adopted and effective and effective 6/19/92;

7 Del. Code, §§6305(a) as amended and effective 7/14/81, and 6306(d) as amended and effective 7/11/80.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklists 67 and 73.

L. State statutes and regulations revise the existing toxicity characteristic by replacing the Extraction Procedure (EP) leach test with the Toxicity Characteristic Leaching Procedure (TCLP) for identifying wastes that are defined as hazardous and subject to regulation under Subtitle C of RCRA as indicated in Revision Checklists 108 and 117B.

Federal Authority: RCRA §1006, 2002(a), 3001, 3002, 3004, 3005 and 3006; 40 CFR Parts 261, 264, 265 and 268 as amended March 29, 1990 (55 FR 11798), June 29, 1990 (55 FR 26986), June 1, 1992 (57 FR 23062), and July 10, 1992 (57 FR 30657).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 261, 264, 265, and 268 as adopted and effective 8/1/95;
7 Del. Code, §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

M. State statutes and regulations contain the language to result in consistent interpretation of the criteria for listing wastes as hazardous under RCRA as indicated in Revision Checklist 76.

Federal Authority: RCRA §3001(a); 40 CFR 261.11(a)(3) as amended May 4, 1990 (55 FR 18726).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.11(a)(3) as adopted and effective 6/19/92;
7 Del. Code §6305(a)(1) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

N. State statutes and regulations add eight new testing methods to the section of regulations that incorporates these methods by reference as indicated in Revision Checklist 79.

Federal Authority: RCRA §§3001, 3004, 3005 and 3006; 40 CFR 260.11(a) as amended June 21, 1990 (55 FR 25454).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §260.11(a) as adopted and effective 6/19/92;
7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 79.

Q. State statutes and regulations exclude from being a solid waste spent wood preserving solutions that have been used and are reclaimed and reused for their original intended purpose as indicated in Revision Checklists 82 and 92.

Federal Authority: RCRA §3001; 40 CFR 261.4(a)(9) as amended December 6, 1990 (55 FR 50450) and July 1, 1991 (56 FR 30192).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.4(a)(9) as adopted and effective 11/19/93;
7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

R. State statutes and regulations allow deletion of certain hazardous waste codes following equipment cleaning and replacement, provided that the requirements of 261.35 are met, as indicated in Revision Checklists 82 and 92.

Federal Authority: RCRA §3001; 40 CFR 261.35 as amended December 6, 1990 (55 FR 50450) and July 1, 1991 (56 FR 30192).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.35 as adopted and effective 11/19/93;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

T. State statutes and regulations exclude from being a solid waste coke and coal tar from the iron and steel industry that contains or is produced from decanter tank tar sludge, EPA hazardous waste K087, when used as a fuel as indicated in Revision Checklist 85. The process producing the coke and coal tar from such decanter tank tar sludge in a coke oven is also excluded from regulation.

Federal Authority: RCRA §3001; 40 CFR 261.4(a)(10) as amended February 21, 1991 (56 FR 7134).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.4(a)(10) as adopted and effective 7/26/94;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 85.

U. State statutes and regulation do not exclude residues, derived from the burning or processing of hazardous waste in a boiler or industrial furnace, from the definition of a hazardous waste under 40 CFR 261.4(b)(4), (7) or (8) unless the device and the owner or operator meet the requirements of 40 CFR 266.112 as indicated in Revision Checklist 85.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(4), 261.4(b)(7), 261.4(b)(8) and 266.112 as amended February 21, 1991 (56 FR 7134).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§261.4(b)(4), 261.4(b)(7), 261.4(b)(8) and 266.112 as adopted and effective 7/26/94;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

V. State statutes and regulations which exclude from being a hazardous waste certain nonwastewater residues resulting from high temperature metals recovery of K061 provided the conditions in 261.3(c)(2)(ii)(C) are met as indicated in Revision Checklist 95.

Federal Authority: RCRA §§3001, 3004(d)-(k) and (m); 40 CFR 261.3(c)(2)(ii)(C) as amended August 19, 1991 (56 FR 41164).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§261.3(c)(2)(ii)(C) as adopted and effective 7/26/94;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

W. State statutes and regulations which exclude from being a solid waste, nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units provided the requirements of 261.4(a)(11) are met as indicated in Revision Checklist 95.

Federal Authority: RCRA §§3001, 3004(d)-(k) and (m); 40 CFR 261.4(a)(11) as amended August 19, 1991 (56 FR 41164).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.4(a)(11) as adopted and effective 7/26/94;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

X. State statutes and regulations exempt, from the definition of hazardous, used oil filters meeting the 40 CFR 261.4(b)(15) criteria as indicated in Revision Checklists 104 and 107.

Federal Authority: RCRA §§1004, 1006, 2002, 3001 and 3014; 40 CFR 261.4(b)(15) as amended May 20, 1992 (57 FR 21524) and July 1, 1992 (57 FR 29220).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.4(b)(15) as adopted and effective 7/26/94;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklists 104 and 107.

Y. State statutes and regulations exclude from being a solid waste K060, K087, K141, K142, K143, K144, K145, K147 and K148, and those coke by-product residues that are hazardous only because they exhibit the Toxicity Characteristic when, subsequent to generation, these wastes are recycled by being returned to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar as specified in Revision Checklists 105 and 110.

Federal Authority: RCRA §§3001(e)(2) and (h); 40 CFR 261.4(a)(10) as amended June 22, 1992 (57 FR 27880) and August 18, 1992 (57 FR 37284).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.4(a)(10) as adopted and effective 7/26/94 and as adopted and effective 8/1/95;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

AA. State statutes and regulations do not require the use of the spike recovery correction as part of the Toxicity Characteristic Leaching Procedure as indicated in Revision Checklist 119.

Federal Authority: RCRA §§1006, 2002, 3001, 3002 and 3006; 40 CFR 261, Appendix II, as amended November 24, 1992 (57 FR 55114) and February 2, 1993 (58 FR 6854).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Part 261, Appendix II as adopted and effective 8/1/95;

7 Del. Code §6305(a) as amended and effective 7/14/81 and §6306 as adopted and effective 7/11/80.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 119.

DD. State statutes and regulations increase the quantity and time limits for contaminated media used in treatability studies, as indicated in Revision Checklist 129.

Federal Authority: RCRA §3001; 40 CFR 261.4(e)(i) & (ii), (e)(3), (f)(3), (f)(4), and (f)(5) as amended February 18, 1994 (59 FR 8362).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW § 261.4(e)(i) & (ii), (e)(3), (f)(3), (f)(4), and (f)(5) as adopted and effective 8/1/95;

7 Del. Code §6305(a) as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

II. DEFINITION OF SOLID WASTE

B. State statutes and regulations include as solid waste secondary materials, fed to a halogen acid furnace, that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste in 40 CFR 261, Subparts C and D as indicated in Revision Checklists 85, 96, and 111.

Federal Authority: RCRA §3001; 40 CFR Part 261.2(d)(2) and (e)(2)(iv) as amended February 21, 1991 (56 FR 7134), August 27, 1991 (56 FR 42504) and August 25, 1992 (57 FR 38558).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §261.2(d)(2) and (e)(2)(iv) as adopted and effective 7/26/94 and as amended and effective 8/1/95;

7 Del. Code §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

The State provisions are equivalent.

C. State statutes and regulations allow secondary materials that are recycled back into the secondary production process from which they were generated to be excluded from the definition of solid as per 261.2(e)(1)(iii) and indicated in Checklist 137.

Federal Authority: RCRA §§3001 and 3004; 40 CFR 260.30, 260.30(b), 260.31(a)&(b), 260.32, 260.33(a)&(b), and 261.2(e)(1)(iii) as amended September 19, 1994 (59 FR 47982).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW §260.30, 260.30(b), 260.31(a)&(b), 260.32, 260.33(a)&(b), and 261.2(e)(1)(iii) as adopted and effective 7/23/96;

7 Del. Code §6305 as amended and effective 7/13/88, and §6307 as amended and effective 6/26/86.

Remarks of the Attorney General

The State provisions are equivalent.

VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

E. State statutes and regulations require that generators who ship hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as a hazardous waste assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility, as indicated in Revision Checklist 71.

Federal Authority: RCRA §§2002, 3002 and 3003; 40 CFR 262.23(e) as amended on January 23, 1990 (55 FR 2322).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §262.23(e) as adopted and effective 6/19/92;

7 Del. Code §6305(a)(8) as amended and effective 7/13/83 and §6306(c) as adopted and effective 7/11/80.

Remarks of the Attorney General

The State provisions are equivalent.

X. LIQUIDS IN LANDFILLS

B. State statutes and regulations prohibit the disposal, in hazardous waste landfills, of liquids that have been sorbed in materials that are biodegradable or that release liquids during routine landfill operations, as indicated in Revision Checklist 118.

Federal Authority: RCRA §3004(c); 40 CFR 260.10, 264.13, 264.314, 264.316, 265.13, 265.314, and 265.316 as amended November 18, 1992 (57 FR 54452).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§260.10, 264.13, 264.314, 264.316, 265.13, 265.314, and 265.316 as adopted and effective 8/1/95;

7 Del. Code §6304(b) as adopted and effective 7/11/80 and §6305(a)(4) as amended and effective 7/13/87.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 118.

XI. GROUND-WATER MONITORING

E. State statutes and regulations allow owners and operators to demonstrate that an alternate hydraulically downgradient monitoring well location will meet 40 CFR 265.91(a)(3)(i)-(iii) criteria as specified in Revision Checklist 99.

Federal Authority: RCRA §§1006, 2002(a), 3001, 3004, 3005 and 3015; 40 CFR 260.10, and 265.91(a)(3) as amended December 23, 1991 (56 FR 66365).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW 260.10, and 265.91(a)(3) as adopted and effective 7/26/94;

7 Del. Code §6305(a)(10) as adopted and effective 7/11/80, and §6307 as adopted and effective 7/11/80.

Remarks of the Attorney General

The State provisions are equivalent.

XIV. HAZARDOUS WASTE EXPORTS

A. State statutes and regulations require generators and transporters of hazardous waste destined for export outside the United States to comply with standards equivalent to those as indicated in Revision Checklist 97.

Federal Authority: RCRA §3017; 40 CFR 262.50 as amended July 15, 1985 (50 FR 28702), August 8, 1986 (51 FR 28664), July 19, 1988 (53 FR 27164), and September 4, 1991 (56 FR 45704).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §262.50, as amended and effective 7/26/94;

7 Del. Code §6305(a) as amended and effective 7/14/81, and §6306 as amended and effective 7/17/95.

Remarks of the Attorney General

The State provisions are equivalent except at §262.53(b) where the State requires the primary exporter to send copies of notifications of intent to export to the EPA Administrator as well as to the State.

XV. STANDARDS FOR FACILITIES

K. State statutes and regulations require new and existing hazardous waste treatment, storage or disposal facilities to control organic air emissions from process vents and equipment leaks as indicated in Revision Checklists 79 and 87.

Federal Authority: RCRA §§1006, 2002, 3001-3007, 3010, 3014 and 7004; 40 CFR Parts 261, 264, 265 and 270 as amended June 21, 1990 (55 FR 25454) and April 26, 1991 (56 FR 19290).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 261, 264, 265 and 122 as adopted and effective 8/1/95;

7 Del. C. §6304(b) and (e), and §6305(a) as amended and effective 7/14/81.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklists 79 and 87.

L. State statutes and regulations contain design, operating, inspection and closure requirements for drip pads and associated tanks, sumps and other devices used to assist in the collection of treated wood drippage as indicated in Revision Checklists 82, 92 and 120.

Federal Authority: RCRA §§2002(a) and 3001(b)&(e)-(1); 40 CFR 262.34(a)(2), 264.190, 264.570, 264.571, 264.572, 264.573, 264.574, 264.575, 265.190, 265.440, 265.441, 265.442, 265.443, 265.444 and 265.445, as amended December 6, 1990 (55 FR 50450), July 1, 1991 (56 FR 30192), and December 24, 1992 (57 FR 61492).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§262.34(a)(2), 264.190, 264.570, 264.571, 264.572, 264.573, 264.574, 264.575, 265.190, 265.440, 265.441, 265.442, 265.443, 265.444 and 265.445 as adopted and effective 11/19/93;

7 Del. C. §6305(a)(4) as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent..

O. State statutes and regulations allow the use of additional financial instruments (letter of credit, a surety bond, a guarantee, trust fund, and purchase of insurance by other firms) to meet the liability coverage requirements as specified in Revision Checklist 113.

Federal Authority: RCRA §§2002(a), 3004 and 3005; 40 CFR 264.141, 264.147, 264.151, 265.141, 265.147 as amended September 1, 1988 (53 FR 33938), July 1, 1991 (56 FR 30200), and September 16, 1992 (57 FR 42832).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.141, 264.147, 264.151, 265.141, and 265.147 as adopted and effective 8/1/95;

7 Del. C. §6305(a)(11) as amended and effective 6/27/86, and §6307(h) as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent except that it restricts to Delaware the state of incorporation for any guaranteeing entity.

P. State statutes and regulations include conforming changes to 264.147(f)(6) and 265.147(f)(6) to expand the instruments available to owners and operators that no longer meet the requirements of the financial test for liability coverage as indicated in Revision Checklist 113.

Federal Authority: RCRA §3004; 40 CFR 264.147(f)(6) and 265.147(f)(6) as amended September 16, 1992 (57 FR 42832).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.147(f) (6) and 265.147(f) (6) as adopted and effective 8/1/95;

7 Del. C. §6305(a) (11) as amended and effective 6/27/86, and §6307(h) as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

Q. State statutes and regulations require reporting of third-party claims against an owner's or operator's liability coverage as indicated by Revision Checklist 113.

Federal Authority: RCRA §§2002(a), 3004 and 3005; 40 CFR 264.147(a) (7)&(b) (7) and 265.147(a) (7)&(b) (7) as amended September 1, 1988 (53 FR 33938) and September 16, 1992 (57 FR 42832)

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.147(a) (7) & (b) (7) and 265.147(a) (7) & (b) (7) as adopted and effective 8/1/95;

7 Del. C. §6305(a) (11) as amended and effective 6/27/86, and §6307(h) as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

R. State statutes and regulations require owners or operators of new drip pads to have either 1) a surface protection system meeting the hydraulic conductivity, material chemical compatibility, and assessment requirements of 264.573(a) (4) or 265.443(a) (4), or 2) a liner and leak detection system below the pad as well as a leak collection system as specified in Revision Checklist 120.

Federal Authority: RCRA §§2002(a) and 3001(b) & (e) (1); 40 CFR 264.572, 265.573, 265.442 and 265.443 as amended December 24, 1992 (57 FR 61492).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.572, 265.573, 265.442 and 265.443 as adopted and effective 1/19/93;

7 Del. C. §6305(a) (4) as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

S. State statutes and regulations require owners or operators of existing drip pads to meet the hydraulic conductivity, material chemical compatibility, and assessment requirements of 264.573(a) (4) or 265.443(a) (4), as specified in Revision Checklist 120.

Federal Authority: RCRA §§2002(a) and 3001(b) & (e) (1); 40 CFR 264.571, 264.573, 265.441 and 265.443 as amended December 24, 1992 (57 FR 61492).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.571, 264.573, 265.441 and 265.443 as adopted and effective 11/19/93;

7 Del. C. §6305(a) (4) as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

T. State statutes and regulations contain requirements for the management of infrequent and incidental drippage in storage yards as indicated in Revision Checklist 120.

Federal Authority: RCRA §§2002(a) and 3001(b)&(e) (1); 40 CFR 264.570(c) and 265.440(c) as amended December 24, 1992 (57 FR 61492).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.570(c) and 265.440(c) as adopted and effective 11/19/93;

7 Del. C. §6305(a)(4) as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

XVI. REQUIREMENTS FOR PERMITS

V. State statutes and regulations incorporate updates to 40 CFR Part 124 as indicated in Revision Checklist 70.

Federal Authority: RCRA §§6901 and 6902; 40 CFR 124.3, 124.5, 124.6, 124.10 and 124.12 as amended April 1, 1983 (48 FR 14146), June 30, 1983 (48 FR 30113), July 26, 1988 (53 FR 28118), September 26, 1988 (53 FR 37396) and January 4, 1989 (54 FR 246).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§124.3, 124.5, 124.6, 124.10 and 124.12 as adopted and 6/19/92;

7 Del. C. §6305(a)(16) as adopted and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

W. State statutes and regulations contain Special Part B information requirements for drip pads as indicated in Revision Checklists 82 and 92.

Federal Authority: RCRA §§2002(a) and 3001(b)&(e) (I); 40 CFR 270.22 as amended December 6, 1990 (55 FR 50450) and July 1, 1991 (56 FR 30192).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §122.26 as adopted and effective 11/19/93;

7 Del. C. §6305(a)(4) as amended and effective 7/13/87, and §6307(c) as amended and effective 7/11/80.

Remarks of the Attorney General

The State provisions are equivalent.

X. State statutes and regulations include permitting requirements for boilers and industrial furnaces burning hazardous waste as indicated in Revision Checklists 85 and 94.

Federal Authority: RCRA §§1006, 2002, 3001 through 3007; 40 CFR 270.22, 270.42(g), 270.42 Appendix I, 270.66, 270.72(a)(6)&(b)(7) and 270.73(f)&(g) as amended February 21, 1991 (56 FR 7134) and July 17, 1991 (56 FR 32688).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§122.22, 122.42(g), 122.42 Appendix I, 122.66, 122.72(a)(6) & (b)(7) and 122.73(f) & (g) as adopted and effective 7/26/94;

7 Del. C. §6305(a)(4) as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

XX. STANDARDS FOR THE MANAGEMENT OF WASTE FUEL AND USED OIL AND FOR THE BURNING OF THESE MATERIALS IN BOILERS AND INDUSTRIAL FURNACES

C. State statutes and regulations include control standards for emissions of toxic organic compounds, toxic metals, hydrogen chloride, chlorine gas and particulate matter from boilers and industrial furnaces burning hazardous waste, and require owners and operators of such facilities to comply with the general facility standards applicable to hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklists 85, 94, 96, 111, and 114. Hazardous waste storage units at regulated burners are subject to the 40 CFR Part 264 requirements.

Federal Authority: RCRA §§1006, 2002, 3001 through 3007, 3010 and 7004; 40 CFR 260.10, 260.11, 260.20, 261.3, 261.6, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340, 265.370, Part 266 Subpart H, and Part 266 Appendices I-X as amended February 21, 1991 (56 FR 7134), July 17, 1991 (56 FR 32688), August 27, 1991 (56 FR 42504), August 25, 1992 (57 FR 38558), and September 30, 1992 (57 FR 44999).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§260.10, 260.11, 260.20, 261.3, 261.6, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340, 265.370, Part 266 Subpart H, and Part 266 Appendices I-X as adopted and effective 7/26/94 and 8/1/95;

7 Del. C. §§6305(a)(4) and 6307 as amended and effective 7/13/87 and §6307 as amended and effective 6/17/86.

Remarks of the Attorney General

The State provisions are equivalent.

E. State statutes and regulations provide used oil management standards for used oil generators, transporters, processors, re-refiners, burners, and marketers as indicated in Revision Checklists 112, 122 and 130.

Federal Authority: Federal Authority: RCRA §§1004, 1006, 2002, 3001, 3014 and 7004; 40 CFR Parts 260, 261, 266 and 279 as amended September 10, 1992 (57 FR 41566), May 3, 1993 (58 FR 26420) and March 4, 1994 (58 FR 10550).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 260, 261, 266 and 279 as adopted and effective 7/26/94, 8/1/95 and 7/23/96;

7 Del. C. §§6304(a), (b) and (e) as amended and effective 7/11/80, and §6305 as amended and effective 7/13/87.

Remarks of the Attorney General

Delaware regulations regarding the management of used oil are equivalent to the Federal program except at DRGHW §261.5(j) where Delaware is more stringent in that mixtures of a CESQG's wastes and used oil are regulated under Parts 260-266, 268, 122, and 124; at §279.82 where it prohibits the use of used oil as a dust suppressant; and at §279.57(b) where an oil processor/re-refiner is required to report certain activities yearly.

F. State statutes and regulations are amended such that the procedures for conducting air quality modeling and screening for boilers and industrial furnaces burning hazardous wastes reference the method recommended in Appendix W of 40 CFR Part 51. State regulations and statutes also incorporate by reference the October 1992 edition of "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources" as indicated in Revision Checklist 125.

Federal Authority: §§1006, 2002, 3001 through 3007, 3010 and 7004; 40 CFR 260.11(a), 266.104(e)(3), 266.106(h) and Part 266 Appendix X, as amended July 20, 1993 (58 FR 38816).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§260.11(a), 266.104(e)(3), 266.106(h) and Part 266 Appendix X, as amended and effective 8/11/95;

7 Del. C. §§6304(b) & (e), 6310, and 6313 adopted and effective 7/11/80, and §§6305(a) and 6312 as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

XXI. LAND DISPOSAL RESTRICTIONS

A. State statutes and regulations provide for the restrictions of the land disposal of certain spent solvents and dioxin-containing hazardous wastes as indicated in Revision Checklists 34, 39, and 50.

Federal Authority: §3004(d)-(k) and (m); 40 CFR Parts 260, 261, 262, 263, 264, 265, 268 and 270 as amended on November 7, 1986 (51 FR 40572), June 4, 1987 (52 FR 21010), July 8, 1987 (52 FR 25760), and August 17, 1988 (53 FR 31138).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 260, 261, 262, 263, 264, 265, 268 and 122 as adopted and effective 8/10/90 and 6/19/92;

7 Del. Code §6304 as amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State is equivalent except in the following areas: the State is more stringent as it requires operating records to retain notices required under any paragraph of DRGHW §268.7, not just §268.7(a) as required by 40 CFR; at §261.6(a)(3) which subjects certain recyclable materials to Part 263 requirements; and at §263.12 which requires hazardous waste transfer facilities to comply with siting and approval requirements.

B. State statutes and regulations for restricting the disposal of certain California list wastes, including liquid hazardous waste containing polychlorinated biphenyls (PCBs) above specified concentrations, and hazardous waste containing

halogenated organic compounds (HOCs) above specified concentrations as indicated in Revision Checklists 39, 50, and 66.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Parts 262, 264, 265, 268 and 270 as amended on July 8, 1987 (52 FR 25760), October 27, 1987 (52 FR 41295), August 17, 1988 (53 FR 31138), and September 6, 1989 (54 FR 36967).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 262, 264, 265, 268 and 122 as adopted and effective 6/19/92;

7 Del. Code §6304 as amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

C. State statutes and regulations for specific treatment standards and effective dates for certain wastes from the "First Third" of the schedule of restricted wastes listed in 40 CFR 268.10 as well as land disposal restrictions for those First Third wastes for which a treatment standard is not established as indicated in Revision Checklists 50, 62 and 66.

Federal Authority: RCRA §3004 (d)-(k) and (m); 40 CFR Parts 264, 265, 266, and 268 as amended on August 17, 1988 (53 FR 31138), February 27, 1989 (54 FR 8264), May 2, 1989 (54 FR 18836), September 6, 1989 (54 FR 36967) and June 13, 1990 (55 FR 23935).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 264, 265, 266, and 268 as adopted and effective 6/19/92;

7 Del. Code §6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

D. State statutes and regulations for certain treatment standards and prohibition effective dates for certain Second Third wastes and for imposing the "soft hammer" provisions¹ of 40 CFR 268.8 on Second Third wastes for which the Agency is not establishing treatment standards as indicated in Revision Checklist 63.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Part 268 as amended June 23, 1989 (54 FR 26594).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Part 268 as adopted and effective 6/19/92;

7 Del. Code §6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

E. State statutes and standards for treatment standards and effective dates for certain First Third "soft hammer" wastes⁴ as well as for certain wastes originally contained in the Third Third of the Schedule as indicated in Revision Checklist 63.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Parts 264, 265 and 268 as amended June 23, 1989 (54 FR 26594).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 264, 265 and 268 as adopted and effective 6/19/92;
7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

F. State statutes and regulations provide specific treatment standards and effective dates for the "Third Third" wastes, "soft hammer" First and Second Third wastes, five newly listed wastes, four wastes that fall into the F002 and F005 (spent solvent) waste codes, F025, mixed radioactive/hazardous wastes, characteristic wastes, and multi-source leachate, as well as establish revised treatment standards for petroleum refining hazardous wastes K048-K052) as indicated in Revision Checklists 78, 83 and 102.

Federal Authority: RCRA §§3001 and 3004 (d)-(k) and (m); 40 CFR 261, 262, 264, 265, 268, and 270 as amended June 1, 1990 (55 FR 22520), January 31, 1991 (56 FR 3864) and March 6, 1992 (57 FR 8086).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW Parts 261, 262, 264, 265, 268, and 122 as adopted and effective 6/19/92 and 7/26/94;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

G. State statutes and regulations provide for alternate treatment standards for lab packs meeting certain criteria as indicated in Revision Checklists 78 and 83.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 264.316(f), 265.316(f), 268.7(a)(7), 268.7(a)(8), 268.42(c), 268.42(c)(1)-(4), and Part 268 Appendices IV and V, as amended June 1, 1990 (55 FR 22520) and January 31, 1991, (56 FR 3864).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§264.316(f), 265.316(f), 268.7(a)(7), 268.7(a)(8), 268.42(c), 268.42(c)(1)-(4), and Part 268 Appendices IV and V, as adopted and effective 6/19/92;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

H. State statutes and regulations contain treatment standards under the land disposal restrictions program for K061 as indicated in Revision Checklist 95.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 268.41 and 268.42 as amended August 19, 1991 (56 FR 41164).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§268.41 and 268.42 as adopted and effective 7/26/94;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

I. State statutes and regulations provide an extension of the land disposal restriction effective date for hazardous waste debris until May 8, 1994, as indicated in Revision Checklists 116, and 123.

Federal Authority: RCRA §3004(h)(3); 40 CFR 268.35(c)-(e) as amended May 15, 1992 (57 FR 20766); October 20, 1992 (57 FR 47772); and May 14, 1993 (58 FR 28506).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW 268.35(c)-(e) as adopted and effective 8/1/95;

7 Del. Code §6314 as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

J. State statutes and regulations provide an extension of the land disposal restriction effective date, until May 8, 1993, for D008 lead-bearing hazardous materials stored before secondary smelting, provided the owner/operator meets the requirements specified at 40 CFR 268.35(k), as indicated in Revision Checklist 106.

Federal Authority: RCRA §3004(h)(3); 40 CFR as 268.35(c) and (k) amended June 26, 1992 (57 FR 28628).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §268.35(c) and (k) adopted and effective 8/1/95;

7 Del. Code §6314 as amended and effective 7/13/87.

Remarks of the Attorney General

The State provisions are equivalent.

K. State statutes and regulations provide land disposal treatment standards for certain hazardous wastes listed after November 8, 1984 as well as treatment standards for debris contaminated with listed hazardous wastes or debris that exhibit certain hazardous waste characteristics as indicated in Revision Checklist 109.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 261.3(f), 268.2, 268.5, 268.7, 268.14, 268.36, 268.40, 268.41, 268.42, 268.43, 268.45, 270.13 and 270.14, as amended August 18, 1992 (57 FR 37194).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§261.3(f), 268.2, 268.5, 268.7, 268.14, 268.36, 268.40, 268.41, 268.42, 268.43, 268.45, 122.13 and 122.14, as adopted and effective 8/1/95;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

L. State statutes and regulations include revisions to existing land disposal restrictions including revision of F001-F005 spent solvents treatment standards, conversion of wastewater standards for twenty-four "F" and "K" water codes based on scrubber standards; revisions to K061, K062 and F006 treatment standards; change of recordkeeping requirements; and clarification of rules related to wastes listed because they exhibit a characteristic as indicated in Revision Checklist 109.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 261.3(a)&(c), 268.9, 268.41, 268.42, 268.43 and 268.46, as amended August 18, 1992 (57 FR 37194).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§ 261.3(a)&(c), 268.9, 268.41, 268.42, 268.43 and 268.46, as adopted and effective 8/1/95;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

M. State statutes and regulations allow storage and treatment in containment buildings as indicated in Revision Checklist 109.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 260.10, 262.34, 264.110, 264.111, 264.112, 264.140, 264.142, 264 Subpart DD, 265.110, 265.111, 265.112, 265.140, 265.142, 265.221, 265 Subpart DD, 268.50, 270.42 and 270.72, as amended August 18, 1992 (57 FR 37194).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §§260.10, 262.34, 264.110, 264.111, 264.112, 264.140, 264.142, 264 Subpart DD, 265.110, 265.111, 265.112, 265.140, 265.142, 265.221, 265 Subpart DD, 268.50, 122.42 and 122.72, as adopted and effective 8/1/95;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87 and §6314 as amended and effective 7/13/83.

Remarks of the Attorney General

The State provisions are equivalent.

N. State statutes and regulations provide a case-by-case extension of the land disposal effective date until May 8, 1994 for Third Third hazardous soils whose best demonstrated available technology (BDAT) was incineration, retorting or vitrification, as well as for Third Third soils contaminated with radioactive mixed waste as indicated in Revision Checklists 116 and 123.

Federal Authority: RCRA §3004(h)(3); 40 CFR 268.35(c)-(e) as amended October 20, 1992 (57 FR 47772) and May 14, 1993 (57 FR 28506).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §268.35(c)-(e) as adopted and effective 8/1/95;

7 Del. Code §6314 as amended and effective 7/13/87.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklists 116 and 123.

O. State statutes and regulations include land disposal restrictions and treatment standards for certain ignitable and corrosive characteristic wastes whose treatment standards were vacated, as indicated in Revision Checklist 124.

Federal Authority: RCRA §3004(d), (e) & (g); 40 CFR 268.37 as amended on May 24, 1993 (58 FR 29860).

Citation of Laws and Regulations; Date of Adoption and Effective Date

DRGHW §268.37 as adopted and effective 8/1/95;

7 Del. Code §§6304 amended and effective 7/14/81, §6305 as amended and effective 7/13/87.

Remarks of the Attorney General

State provisions are equivalent to Federal revisions listed in Checklist 124.

Q. State statutes and regulations contain treatment standards for certain newly identified organic toxicity wastes and for newly listed coke product and chlorotoluene production wastes as well as dilution, prohibitions for high organic content (TOC) ignitable and toxicity characteristic pesticides as indicated in Revision Checklist 137.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268 as amended September 19, 1994 (59 FR 47982) and January 3, 1995 (60 FR 242).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW Part 268 as adopted and effective 7/23/96;

7 Del. Code §6304(a) & (b) as amended and effective 7/11/80, §6307 as amended and effective 6/26/86, and §6314 as adopted and effective 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent.

R. State statutes and regulations contain modifications to the land disposal restrictions which simplify and provide consistency including the Universal Treatment Standards, treatment standards from three tables consolidated into one table, reduced information on notification forms, and simplified regulations for lab pack treatment as indicated in Revision Checklist 137.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268 as amended September 19, 1994 (59 FR 47982) and January 3, 1995 (60 FR 242).

Citation of Laws and Regulations; Date of Enactment and Adoption

DRGHW Part 268 as adopted and effective 7/23/96;

7 Del. Code §6304(a) & (b) as amended and effective 7/11/80, §6307 as amended and effective 6/26/86, and §6314 as adopted and effective 7/13/88.

Remarks of the Attorney General

The State provisions are equivalent.

XXII. STATE INITIATED CHANGES

Delaware has made amendments to the provisions listed in the table which follows. These amendments correct typographical and/or printing errors, clarify and make the State's regulations more internally consistent. The following regulatory revision make the State's program more stringent than the Federal code:

- At 265.201(c), the State requires generators of between 100 and 1,000 kg/mo to maintain written documentation of inspections for a minimum of three years. This is a more stringent provision since the Federal code does not require generators of between 100 and 1,000 kg/mo to maintain documentation of inspections.

Also, there is a difference between the Delaware Regulations Governing Hazardous Waste (DRGHW) and the Federal Code at the following citation. The intent of both citations is equivalent.

- At 261.5(f)(3) and 261.5(g)(3), the State requires Conditionally Exempt Small Quantity Generators (CESQGs) to demonstrate delivery of hazardous waste to an off-site treatment, storage and disposal facility (TSDF). The Federal Code requires Conditionally Exempt Small Quantity Generators (CESQGs) to ensure delivery of hazardous waste to an off-site treatment, storage and disposal facility (TSDF). DRGHW uses the term "demonstrate" to mean the equivalent of the Federal term "ensure".

The State's program, as amended by these provisions, remains equivalent to and no less stringent than the Federal program. These State initiated changes are submitted under the requirements of 40 CFR 271.21(a).

State Requirement	Federal Requirement
DRGHW 260.10 "EPA identification number", as published 1996	40 CFR 260.10 "EPA identification number"
DRGHW 260.10 "Existing tank system" or "existing component", as amended September 1, 1997	40 CFR 260.10 "existing tank system" or "existing component"
DRGHW 260.10 "New tank system" or "new tank component", as amended September 1, 1997	40 CFR 260.10 "new tank system" or "new tank component"
DRGHW 260.10 "Regional Administrator", as amended September 1, 1997	40 CFR 260.10 "Regional Administrator"
DRGHW 260.32(a)-(e), as published 1996	40 CFR 260.32(a)-(e)
DRGHW 261.5(f)(3) introductory paragraph, as published 1996	40 CFR 261.5(f)(3) introductory paragraph
DRGHW 261.5(g)(3) introductory paragraph, as published 1996	40 CFR 261.5(g)(3) introductory paragraph
DRGHW 261.6(a)(3)(i)(A)&(B), as amended September 1, 1997	40 CFR 261.6(a)(3)(i)(A)&(B)
DRGHW Part 261, Appendix IX, as amended September 1, 1997	40 CFR part 261, Appendix IX
DRGHW 262.10(d) as published 1996	40 CFR 262.10(d)
DRGHW 262.34(d)(5), as published 1996	40 CFR 262.34(d)(5)

State Requirement	Federal Requirement
DRGHW 262.41(a) (1)&(2), as published 1992	40 CFR 262.41(a) (1)&(2)
DRGHW 262.42(b), as published 1996	40 CFR 262.42(b)
DRGHW 262.53(b), as published 1996	40 CFR 262.53(b)
DRGHW 262.55 introductory paragraph, as published 1996	40 CFR 262.55 introductory paragraph
DRGHW 262.56(a) introductory paragraph, as published 1996	40 CFR 262.56(a) introductory paragraph
DRGHW 262.56(a) (4), as published 1996	40 CFR 262.56(a) (4)
DRGHW 262.57(b), as published 1996	40 CFR 262.57(b)
DRGHW Part 262, Appendix II, as amended September 1, 1997	40 CFR part 262, Appendix II
DRGHW 263.30(c) (1), as published 1996	40 CFR 263.30(c) (1)
DRGHW 264.1(c)&(d), as published 1996	40 CFR 264.1(c)&(d)
DRGHW 264.1(g) (7), as published 1996	40 CFR 264.1(g) (7)
DRGHW 264.12(a), as published 1996	40 CFR 264.12(a)
DRGHW 264.56(d) (2), as published 1996	40 CFR 264.56(d) (2)
DRGHW 264.91(a) (1)&(2), as published 1996	40 CFR 264.91(a) (1)&(2)
DRGHW 264.95(a), as published 1996	40 CFR 264.95(a)
DRGHW 264.98(g) (5) (ii) (A), as published 1996	40 CFR 264.98(g) (5) (ii) (A)
DRGHW 264.143(f) (1) (i) (A), as published 1996	40 CFR 264.143(f) (1) (i) (A)
DRGHW 264.145(c) (7), as published 1996	40 CFR 264.145(c) (7)
DRGHW 264.151(a), as published 1996	40 CFR 264.151(a)
DRGHW 264.151(i), except 264.151(i) (2) (d), as published 1996	40 CFR 264.151(i), except 264.151(i) (2) (d)
DRGHW 264.151(j), except 264.151(j) (2) (d), as published 1996	40 CFR 264.151(j), except 264.151(j) (2) (d)
DRGHW 264.340(b) introductory paragraph, as published 1996	40 CFR 264.340(b) introductory paragraph
DRGHW 264.340(d), as published 1996	40 CFR 264.340(d)
DRGHW Part 264, Appendix I, as published 1992	40 CFR part 264, Appendix I
DRGHW Part 264, Appendix VI, as amended September 1, 1997	40 CFR part 264, Appendix VI
DRGHW Part 264, Appendix IX, as published 1996	40 CFR part 264, Appendix IX

State Requirement	Federal Requirement
DRGHW 265.11(a), as published 1996	40 CFR 265.11
DRGHW 265.12(a), as published 1996 and amended September 1, 1997	40 CFR 265.12(a)
DRGHW 265.52(f), as amended September 1, 1997	40 CFR 265.52(f)
DRGHW 265.53(b), as published 1996	40 CFR 265.53(b)
DRGHW 265.56, as published 1996	40 CFR 265.56
DRGHW 265.71(b)(4), as published 1996	40 CFR 265.71(b)(4)
DRGHW 265.174, as published 1996	40 CFR 265.174
DRGHW 265.201(c), as published 1996	40 CFR 265.201(c)
DRGHW 122.10(e)(2)-(6), as amended September 1, 1997	40 CFR 270.10(e)(2)-(6)
DRGHW 122.14(b)(20), as published 1996	40 CFR 270.14(b)(20)
DRGHW 122.14(c)(8) introductory paragraph, as published 1996	40 CFR 270.14(c)(8) introductory paragraph
DRGHW 122.15, as published 1996	40 CFR 270.15
DRGHW 122.18(b), as published 1996	40 CFR 270.18(b)
DRGHW 122.18(d), as published 1992	40 CFR 270.18(d)
DRGHW 122.19(c)(1)(iii), as published 1995	40 CFR 270.19(c)(1)(iii)
DRGHW 122.32(c), as amended September 1, 1997	40 CFR 270.32(c)
DRGHW 122.33(a)(3), as published 1996	40 CFR 270.33(a)(3)
DRGHW 122.60(a), as published 1996	40 CFR 270.60(a)
DRGHW 122.61(a), as published 1996	40 CFR 270.61(a)
DRGHW 122.72(b)(5), as amended September 1, 1997	40 CFR 270.72(b)(5)
DRGHW 124.1(a), as amended September 1, 1997	40 CFR 124.1(a)
DRGHW 124.10(a)(2)&(3), as amended September 1, 1997	40 CFR 124.10(a)(2)&(3)
DRGHW 124.10(b)(1), as published 1996	40 CFR 124.10(b)(1)
DRGHW 124.10(c)(1)(ii), as amended September 1, 1997	40 CFR 124.10(c)(1)(ii)
DRGHW 124.10(d)(1)(iii), as amended September 1, 1997	40 CFR 124.10(d)(1)(iii)
DRGHW 124.15, as amended September 1, 1997	40 CFR 124.15

The following provisions do not have a direct Federal analog.

State Requirement

DRGHW 260.10 "Commingling", as published
1996

DRGHW 260.10 "Consolidation", as
published 1996

DRGHW 260.10 "Division", as amended
published 1996

DRGHW 260.10 "HWSA tank", as amended
September 1, 1997

DRGHW 260.10 "Non-HWSA tank", as amended
September 1, 1997

DRGHW 262.12(d), as published 1996

DRGHW 263.11(c), as published 1996

DRGHW 264.11(b), as published 1996

DRGHW 265.11(b), as published 1996

DRGHW 122.3(a)(3), as amended September
1, 1997

XXIII. MEMORANDUM OF AGREEMENT (MOA)

The State uses the MOA to satisfy certain Federal procedural requirements. The State has the authority to enter into and carry out the agreement, and no applicable State statute (including the State Administrative Procedures Act) requires that the procedure be promulgated as a rule in order to be binding.

The undersigned executes this Attorney General's Statement on authority delegated by M. Jane Brady, Attorney General of the State of Delaware.

Seal of Office

James L. Langdon
Signature

Seanne L. Langdon
Name (Type or Print)

Deputy Attorney General
Title

6-12-98
Date